

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

DIVISION FIVE

)	No. ED96322
)	
In the Interest of L.J.D.,)	
a minor child,)	Appeal from the Circuit Court
)	of Clark County
)	
)	Honorable Gary Dial
)	
)	Filed: November 15, 2011

Appellant Sarah Welch appeals from the trial court's order terminating her parental rights to her minor child. The trial court terminated Welch's parental rights under Sections 211.447.5(2) and (3), RSMo. Cum. Supp. 2010, on grounds that Welch had a mental condition that rendered her unable to care for her minor child and that Welch had also failed to adequately care for her child and remedy unsanitary conditions in her home. The trial court also held that termination of Welch's parental rights was in the best interest of the child. Welch claims insufficient evidence exists to support the trial court's decision.

REVERSED and REMANDED.

Division Five holds: The trial court's order terminating Welch's parental rights is not supported by sufficient evidence. The record does not contain evidence that Welch's mental condition renders her unable to provide adequate care to her minor child as is required to terminate her parental rights under Section 211.447.5(2) and (3), RSMo Cum. Supp. 2010. The evidence before the trial court also demonstrated that Welch remedied the underlying harmful conditions originally within her home, made significant progress toward accomplishing the goals of her social service plan, and consistently played an active and caring role in the life of her minor child. Given the lack of evidence that Welch's home was unsanitary at the time of the trial court's decision, as well as the lack of evidence that Welch failed to make substantial progress toward reunification, the trial court's decision to terminate Welch's parental rights under Sections 211.447.5(2)(d) and 211.447.5(3), RSMo Cum. Supp. 2010 is also not supported by sufficient evidence.

Opinion by: Kurt S. Odenwald, C.J. Glenn A. Norton, J., and Ben Burkemper, Sp. J., Concur.

Attorney for Appellant: Lance M. McClamroch

Attorney for Respondent: Chris Koster and Gary L. Gardner

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
